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Submission to the House Committee on Insurance Request for Information
Interim Charges, 86th /Legislature
From
Texas Coalition for Affordable Insurance Solutions

September 8, 2020

Mr. Chairman and Committee Members,

Thank you for the opportunity for the Texas Coalition for Affordable Insurance Solutions (“TCAIS”) to comment on your interim charges during the unprecedented conditions created by the COVID 19 pandemic. We very much appreciate your efforts to continue stakeholder dialogue on insurance policy matters despite the current dislocation of our usual processes. TCAIS strongly supports thoughtful, fact-based insurance policy and regulation in the Texas marketplace, and views your committee deliberations as a critical step in the policy process.

Following are TCAIS comments regarding Charge 1, monitoring of legislation:

HB 1900, which amends the Texas Windstorm Insurance Association (TWIA) operations and funding practices. Review the rulemaking process by the Texas Department of Insurance (TDI) and the adoption of an updated plan of operation by TWIA. Monitor whether the purchase of reinsurance has increased or declined and determine whether this provision of the legislation has had any impact on premium rates. Monitor the appointment and work of the Legislative Funding and Funding Structure Oversight board.

TCAIS Response: In general, TCAIS observes that the rulemaking process related to HB 1900 has been fair and fact based. TDI staff has conducted its research and public hearings in a professional manner. We observe that some of the public comment in the rules hearing related to the potential new reinsurance assessment went well beyond the stated purpose of the rule, and introduced novel concepts related to insurance expenses that were both unrelated to the rule at hand and generally problematic related to insurance principles. However, TDI staff maintained the appropriate boundaries in the hearing. Overall, the rules procedure thus far has been competent and properly disciplined with regard to the role of the regulator.

TCAIS continues to have concerns about the reinsurance provision in HB 1900, which creates an exposure to assessment based on the board's decision to buy reinsurance above a 1 in 100 year level. Because the potential assessment has no limit and is based on a board decision rather than weather or other factors with statistical probabilities, insurers cannot evaluate the regulatory risk associated with this provision. Because this cost ultimately is paid by the whole Texas marketplace, the result is a confusing, non-transparent but potentially serious exposure to companies and consumers. We believe that the appropriate governing provision for reinsurance purchases by TWIA lies in the statutory duties and expertise of the board itself rather than a bifurcation of payment.

TCAIS continues to have concerns regarding sections 1 and 2 of HB 1900, now sections 2210.071 and 2210.0715, Insurance Code, related limiting the funds available to pay claims to premiums and securities acquired in or before the catastrophe year. This limitation has not yet been tested by actual use. However, TCAIS worries that a series of small losses could create conditions that compel TWIA to issue securities or assessments for de minimis amounts that could easily and efficiently be paid with cash on hand from ongoing premium. The ratio of expense to benefit in such circumstances could be very high and not reflective of good public policy. TCAIS urges the committee to reexamine the referenced provisions.

The operations of the Legislative Funding and Funding Oversight Board have been interrupted by the current public health crisis, and as a result cannot be evaluated. TCAIS is very concerned, however, by the lack of geographical diversity in the House appointments to the board. Non-coastal counties have a very serious exposure to TWIA funding needs, but are completely unrepresented on the board. We do not understand how this lack of representation conforms to the practices of representation normally observed by the Texas Legislature.

SB 442, which requires insurers that do not provide flood coverage in their policy to disclose that the policy does not cover flood events. Determine whether consumers are being properly informed of whether they have flood coverage. Examine the development of standardized disclosure forms for all insurance policies in Texas (health, homeowners, and personal auto) to provide more clarity to consumers about what the policy covers and any exclusions.

TCAIS Response: TCAIS supported both SB 442 and its House companion in the 86th Legislature, recognizing the public policy concern over flood coverage graphically illustrated by Hurricane Harvey. In our view, the legislation encouraged clear communication while not being overly prescriptive. So far, feedback from our customers and the marketplace generally has not revealed any issues with the implementation of the bill. However, we do recognize that the legislation has yet to be tested by a major flood event since enacted. We will continue to monitor and communicate with regulators regarding SB 442.

With regard to the second part of the charge, TCAIS urges caution when examining the use of broad standardized materials. Texas has a dubious record related to standardization of

insurance language and products that has led to serious market disruptions and consumer costs, including the “mold crisis” of the early 2000s. TCAIS agrees that good communication standards are necessary in a properly regulated marketplace. However, in our experience, a high volume of prescribed information can actually lead to more customer confusion than clarity. Additionally, overregulating the language of and delivery system for disclosures can result in insurers not being able to communicate with consumers in the most effective manner, and can result in movement toward the kind of unhealthy mandates for insurance products referenced above. Legislatively mandated disclosures should be fully vetted and considered on a case by case basis to ensure against unintended market consequences.

Thank you again for the opportunity to address the committee. Please let us know if you have questions or comments.

Best Regards,

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